

MONTANA LEGISLATIVE HISTORY

Chapter 212 1979

Bill H _____ S 332 Original bill & history C

H. Committee on Local Government

Hearing Date(s) Mar 06 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Mar 06 ☒ C

S. Committee on Local Government

Hearing Date(s) Feb 07 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Feb 08 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

1 *Sen. Watt* BILL NO. *332*
2 INTRODUCED BY *Watt*
3 BY REQUEST OF THE CODE COMMISSIONER
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
6 CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO DEBT
7 MANAGEMENT AND TO PERMIT THE BOARD OF NATURAL RESOURCES AND
8 CONSERVATION TO ISSUE REFUNDING REVENUE BONDS."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 Section 1. Section 7-7-105, MCA, is amended to read:
12 "7-7-105. Challenges to local government bond
13 elections. (1) No action ~~can~~ may be brought for the purpose
14 of restraining the issuance and sale of bonds or other
15 obligations by any county, city, town, or political
16 subdivision of the state or for the purpose of restraining
17 the levy and collection of taxes for the payment of such
18 bonds or other obligations after the expiration of 60 days
19 from the date of the election on such bonds or obligations
20 or, if no election was held thereon, after the expiration of
21 60 days from the date of the order, resolution, or ordinance
22 authorizing the issuance thereof, on account of any defect,
23 irregularity, or informality in giving notice of or not in
24 holding the election, ~~nor shall any~~ No defense based upon
25 any such defect, irregularity, or informality may be

1 interposed in any action unless brought within this period.
2 This subsection applies but is not limited to any action and
3 defense in which the issue is raised whether a voted debt or
4 liability has carried by the required majority vote of the
5 electors qualified and offering to vote thereon.
6 (2) (a) Any elector qualified to vote in a bond
7 election of a county, a city, or any political subdivision
8 of either may contest a bond election for any of the
9 following causes:
10 (i) that the precinct board, in conducting the
11 election or in canvassing the returns, made errors
12 sufficient to change the result of the election;
13 (ii) that any official charged with a duty under the
14 election laws failed to perform that duty;
15 (iii) that in conducting the election, any official
16 charged with a duty under the election laws violated any of
17 the provisions of Title 13 relating to bond elections;
18 (iv) that electors qualified to vote in the election
19 under the provisions of the constitutions of Montana and the
20 United States were not given opportunity to vote in the
21 election;
22 (v) that electors not qualified to vote in the
23 election, under the provisions of the constitutions of
24 Montana and the United States were permitted to vote in the
25 election.

1 (b) Within 60 days after the election, the contestant
2 shall file a verified petition with the clerk of the court
3 in the judicial district where the election was held.

4 (3) The word "action", as used in this section, is to
5 be construed, whenever it is necessary to do so, as
6 including a special preceeding proceeding of a civil
7 nature."

8 Section 2. Section 7-7-4103, MCA, is amended to read:

9 "7-7-4103. General qualifications to vote on questions
10 of municipal indebtedness. (1) ~~Only such registered~~
11 ~~Registered~~ electors of the city, town, or other municipal
12 ~~corporation whose names appear upon the last assessment roll~~
13 ~~shall be entitled to~~ may vote upon any proposal to create or
14 increase any indebtedness of the city, town, or other
15 municipal corporation required by law to be submitted to a
16 vote of the electors thereof.

17 (2) No such elector, otherwise qualified hereunder,
18 ~~shall~~ may be denied the right to vote by reason of the fact
19 ~~that because~~ the polling place for a general election for
20 the precinct wherein he resides and is entitled to vote lies
21 within another city, town, or other municipal corporation."

22 Section 3. Section 7-7-4111, MCA, is amended to read:

23 "7-7-4111. Procedure to declare municipal bankruptcy.
24 ~~(1) The state of Montana does hereby consent and exact that~~
25 ~~any Any city or town of the state of Montana shall have the~~

1 ~~right and power to~~ may submit itself and a proposed plan of
2 composition to the jurisdiction of the bankruptcy court
3 having jurisdiction of such matter ~~to and~~ be governed by
4 the proceedings, orders, and decrees of ~~said the~~ court in
5 ~~the manner and extent and as provided by said act and to~~
6 the federal municipal bankruptcy laws.

7 (2) The city or town may compose and enter into,
8 submit itself to, and perform the plan of composition in the
9 ~~manner prescribed and as required by said act the federal~~
10 laws and the orders and decrees of ~~said the~~ bankruptcy court
11 ~~thereunder and as effected thereby:~~

12 ~~(1)(a)~~ upon and after the adoption by its city council
13 or town council of an ordinance or resolution:

14 ~~(a)(i)~~ declaring that it is insolvent or unable to
15 meet its debts as they mature;

16 ~~(b)(iii)~~ declaring that it desires to effect a plan for
17 the composition of its debts under the provisions of t'
18 ~~Municipal Corporation Bankruptcy Act of the United States~~
19 ~~as amended, added to, and now existing~~ federal municipal
20 bankruptcy laws; and

21 ~~(c)(iii)~~ providing that ~~said the~~ city or town shall
22 proceed to the composition of its municipal indebtedness
23 under the provisions of ~~said act the federal laws;~~ and

24 ~~(2)(b)~~ upon the acceptance in writing of the proposed
25 plan of composition of its municipal indebtedness proposed

1 by--such--municipality by creditors of the petitioning
2 municipal corporation owning not less than the percentage
3 thereof in amount of the municipal securities affected or to
4 be affected by the proposed plan of composition, as provided
5 in ~~said act~~ the federal laws."

6 Section 4. Section 7-7-4112, MCA, is amended to read:
7 "7-7-4112. Power to comply with court decrees related
8 to bankruptcy. Any such city or town ~~shall have the power to~~
9 ~~do all things and to may~~ comply with all orders and decrees
10 contemplated by ~~said Municipal Corporation Bankruptcy Act~~
11 the federal municipal bankruptcy laws and to ~~may~~ issue its
12 bonds and other securities for the carrying out and
13 consummation of the composition of its debts as provided and
14 contemplated by ~~said act~~ the federal law and as required by
15 the orders and decrees of ~~said the bankruptcy court.~~"

16 Section 5. Section 7-7-4221, MCA, is amended to read:
17 "7-7-4221. Election on question of incurring
18 indebtedness — exception. (1) Except as provided in
19 subsection (2), whenever the ~~council or commission governing~~
20 ~~body of any city or town having a corporate existence in~~
21 ~~this state or hereafter organized under any of the laws~~
22 ~~thereof shall deem~~ municipality considers it necessary to
23 issue bonds pledging the general credit of the municipality
24 for any purpose ~~whatever under its powers as set forth in~~
25 ~~any statute or statutes of this state or amendments thereto~~

1 authorized by law, the question of issuing ~~such the~~ bonds
2 shall first be submitted to the electors of ~~such the~~ city or
3 town who are qualified to vote on such question ~~in the~~
4 ~~manner hereinafter set forth.~~

5 (2) It ~~shall is~~ not be necessary to submit to ~~such the~~
6 electors the question of issuing refunding bonds to refund
7 bonds theretofore issued and then outstanding or the
8 question of issuing revenue bonds not pledging the general
9 credit of the municipality under any laws of this state.

10 ~~(3) No bonds shall be issued by a city or town~~
11 ~~pledging the general credit of the municipality for any~~
12 ~~purpose except to fund or refund warrants or bonds issued~~
13 ~~prior to and outstanding on July 1, 1942, as authorized in~~
14 ~~this section, unless authorized at a duly called special or~~
15 ~~general election at which the question of issuing such bonds~~
16 ~~is submitted to the qualified electors of the city or town~~
17 ~~and approved as hereinafter provided."~~

18 Section 6. Section 7-7-4226, MCA, is amended to read:
19 "7-7-4226. Resolution to submit question of issuing
20 bond to voters. (1) When the ~~council or commission governing~~
21 ~~body of any city or town deems~~ municipality considers it
22 necessary to issue bonds pledging the general credit of the
23 municipality pursuant to any statute of this state, the
24 ~~council governing body~~ shall pass and adopt a resolution.

25 (2) The resolution shall:

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1 (a) recite the purpose or purposes for which it is
2 proposed to issue ~~such bond~~ the bonds;

3 (b) fix the amount of bonds to be issued for each
4 purpose;

5 (c) determine the number of years through which such
6 ~~the bonds~~ are to be paid, not exceeding the limits fixed in
7 ~~7-7-4201~~ 7-7-4202; and

8 (d) unless such bonds are revenue bonds not pledging
9 the general credit of the municipality, make such provisions
10 as are necessary for having ~~submitting~~ the question
11 ~~submitted~~ to the qualified electors of the city or town at
12 the next general city or town election or at a special
13 election which the ~~council or commission governing body~~ may
14 call for such purpose.

15 (3) ~~In cases where whenever~~ the bond issuance is
16 proposed by petition, the ~~council or commission governing~~
17 ~~body~~ shall, before submitting the measure to the electorate
18 ~~electors~~, pass a resolution containing the information
19 herein required and, in addition thereto, setting forth the
20 essential facts in regard to the filing and presentation of
21 the petition."

22 Section 7. Section 7-7-4236, MCA, is amended to read:

23 "7-7-4236. Resolution to issue bonds. (1) If ~~it is~~
24 ~~found that at such election~~ 40% or more of the qualified
25 electors of the city or town entitled to vote on ~~such the~~

1 ~~question or proposition of issuing bonds~~ voted thereon and
2 ~~that a majority of such the~~ votes were cast in favor of the
3 issuing of ~~such the~~ bonds, the city or town council shall,
4 at a regular or special meeting held within 30 days
5 thereafter, ~~pass and adopt~~ a resolution providing for the
6 issuance of ~~such the~~ bonds.

7 (2) Such ~~the~~ resolution shall recite:

8 (a) the purpose for which ~~such the~~ bonds are to be
9 issued;

10 (b) the amount thereof;

11 (c) the maximum rate of interest the bonds may bear;

12 (d) the date they shall bear;

13 (e) the period of time through which they shall ~~be~~ are
14 payable; and

15 (f) that any thereof ~~bond~~ may be redeemed in full, at
16 the option of the city or town, on any interest payment date
17 ~~from and after 10 years from the date of issue expiration~~
18 ~~one-half of the term for which the bond was issued.~~

19 (3) Such ~~the~~ resolution shall provide for the manner
20 of the execution of the bonds. It shall provide that
21 preference shall be given ~~amortization~~ bonds but shall fix
22 the denomination of serial bonds in case it shall be found
23 advantageous to issue bonds in that form. The ~~board~~ council
24 may in its discretion provide that such bonds may be issued
25 and sold in two or more series or installments.

(4) The resolution shall adopt a form of notice of the sale of the bonds."

Section 8. Section 7-7-4254, MCA, is amended to read:

"7-7-4254. Procedure for sale of bonds. (1) The city or town council shall meet at the time and place fixed in the notice to consider bids for the bonds.

(2) The bonds shall be sold at not less than par and accrued interest to date of delivery, and each bidder shall specify the form of bonds to be issued, whether amortization or serial, and the rate of interest at which he will purchase the bonds. A bid for amortization bonds shall have preference over a bid for serial bonds, all other things being equal. In determining the kind of bonds to be issued, the council shall take into consideration not only the rate of interest demanded on each kind but also all other known elements affecting the interests of the city or town. The council shall accept the bid ~~they shall judge it considers~~ most advantageous to the city or town. ~~The board is authorized to~~ council may reject any and all bids and to sell the bonds at private sale if ~~they deem it for this is~~ considered to be in the best interests of the city or town; provided, however, that ~~such the bonds shall~~ may not be sold at less than par and accrued interest to date of delivery.

(3) No attorneys' fees or brokerage or other fees or commissions of any kind ~~shall~~ may be paid to any person or

corporation for assisting in the proceedings, in the preparation of the bonds, or in negotiating the sale thereof."

Section 9. Section 7-7-4265, MCA, is amended to read:

"7-7-4265. Tax levy for payment of bonds. (1) The city or town council, at the time of making the levy of taxes for general city or town purposes, must levy a separate and special tax upon all taxable property in the city or town for the payment of interest ~~on the~~ and principal ~~of for~~ each series or issue of bonds outstanding. The tax levy for any one series or issue of bonds must be entirely separate and distinct from such ~~the~~ levy for any other issue or series of bonds.

(2) The levy made for the purpose of paying interest on and principal of each series or issue of bonds must be high enough to raise an amount sufficient to pay all interest on and so much of the principal, if any, of such ~~the~~ bonds as will become due and payable during the then-current fiscal year or within 90 days thereafter, as such amount is shown by the treasurer's statement provided for by 7-7-4264. If no part of the principal of such bonds will become due and payable within such time, then such tax levy must be high enough to raise an amount sufficient to pay all interest which will become due and payable during the current fiscal year or within 90 days thereafter and to

also place in the sinking fund for such issue or series of bonds, for the payment of the principal thereof when the same becomes due, an amount not less than a sum produced by dividing the whole amount for which such the series or issue of bonds were originally issued by the number of years for which such series or issue of bonds were originally issued to run, as such amounts are shown by the treasurer's statement provided for by 7-7-4264."

Section 10. Section 7-7-4602, MCA, is amended to read:

"7-7-4602. Definitions. ~~The following terms, wherever used or referred to in this part, shall have the following meanings unless a different meaning appears from the context.~~
As used in this part, unless the context indicates otherwise, the following definitions apply:

(1) ~~The term "enterprise" shall mean "Enterprise"~~
~~means~~ any work, undertaking, or project which the municipality is or may hereafter be authorized to construct and from which the municipality ~~has heretofore derived or may hereafter derive~~ derives revenues, for the refinancing or the refinancing and improving of which enterprise refunding bonds are issued under this part; and such enterprise ~~shall include~~ includes all improvements, betterments, extensions, and replacements thereto and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith

or incidental thereto.

(2) ~~The term "federal agency" shall include "Federal agency" means~~ the United States, the president of the United States, the federal emergency administrator of public works, ~~reconstruction finance corporation, or any agency, instrumentality, or corporation of the United States which has heretofore been or may hereafter be~~ designated or created by or pursuant to any act or joint resolution of the congress of the United States or which ~~may be~~ directly or indirectly owned or controlled by the United States.

(3) ~~The term "governing body" "Governing body" means,~~
 in the case of a city or town, ~~shall mean~~ the council, commission, or other body, board, officer, or officers having charge of the finances thereof; ~~and in the case of the state water conservation board, shall mean the board itself.~~

(4) ~~The term "holder of bonds" "Holder of bonds"~~
~~"bondholder" (or any similar term) shall mean~~ means any person who ~~shall be~~ is the bearer of any outstanding refunding bond ~~or refunding bonds,~~ registered to bearer or not registered, or the registered owner of any such outstanding bond ~~or bonds~~ which ~~shall be~~ is at the time be registered other than to bearer.

(5) ~~The term "improving" shall mean "Improving" means~~
 reconstructing, replacing, extending, repairing, bettering,

equipping, developing, embellishing, or improving or any one or more of the foregoing.

(6) ~~The term "law" shall mean~~ "Law" means any act or statute (general, special, or local) of this state, including without being limited to the charter of any municipality.

(7) ~~The term "municipality" shall mean~~ "Municipality" means any city or town of this state ~~or the state water conservation board.~~

(8) ~~The term "refinancing" shall mean~~ "Refinancing" means funding, refunding, paying, or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or other obligations ~~heretofore or hereafter~~ issued to finance or to aid in financing the acquisition, construction, or improving of an enterprise and payable solely from all or any part of the revenues thereof, including interest thereon in arrears or about to become due, whether or not represented by coupons or interest certificates.

(9) ~~The term "refunding bonds" shall mean~~ "Refunding bonds" means notes, bonds, certificates, or other obligations of a municipality issued pursuant to this part or pursuant to any other law as supplemented by or in conjunction with this part.

(10) ~~The term "revenues" shall mean~~ "Revenues" means

all fees, tolls, rates, rentals, and charges to be levied and collected in connection with and all other income and receipts of whatever kind or character derived by the municipality from the operation of any enterprise or arising from any enterprise."

~~NEW SECTION.~~ Section 11. Refunding revenue bonds. The board may issue refunding revenue bonds under the provisions of Title 7, chapter 7, part 46. For this purpose, in Title 7, chapter 7, part 46, references to "governing body" means the "board" and references to "municipality" means the "board".

Section 12. Codification. It is intended that section 11 be codified as an integral part of Title 85, chapter 1, part 3, and the provisions of Title 85, chapter 1, apply to section 11.

-End-

SENATE BILL 339: Mr. Wineberg explained this was heard as a House bill last session and deals with property tax. He stated there would be percentage changes. It would increase by 1% more. The current percentage rate is 2.4%. It could go to 5% when needed. He stated there was also a major change in the freeholder requirements in certain sections of this bill. There were no questions by committee members and hearing was then closed on Senate Bill 339.

SENATE BILL 332: Mr. Wineberg explained this section deals with deed enforcement as well as a new section on page 14, dealing with municipal revenue bonds. He then explained municipal revenue bonds are sold by cities when they can't come up with cash to finance a certain project. This was included in the codification bills allowing them to have refunding bonds in minor matters. There were no questions by committee members and hearing was closed on Senate Bill 332.

SENATE BILL 350: Mr. Wineberg explained this deals with GO bonds in counties and cities. He stated that certain sections have been requested to be repealed by the Attorney General's office, as well as certain District Attorney offices. Members were asked to familiarize themselves with this section. There were no questions by committee members and hearing was closed on Senate Bill 350.

SENATE BILL 306: Larry Wineberg explained this deals with percentage limits on indebtedness of local governments and assessed valuation. He stated there would be a new section which would deal with the value of taxable property. He stated there had been percentage changes that should have been made under House Bill 70 in the past session. He then referred to page 3, line 24, noting the figure of 10%. He then referred to line 25, the figure would be changed to 25%. He stated the last figure in the House bill that was passed had been 18%. The amount to DCA should be 36%. He stated he understood some municipalities would be exceeding their bond indebtedness if it was not changed 36%. There were then questions by committee members.

After further discussion of the fact that this dealt strictly with taxes, committee members felt that this perhaps should be transferred to the Taxation Committee. It was then moved by Representative Reichert that Senate Bill 306 be removed from the House recodification bills and transferred to the Taxation Committee. A second was made by Representative Waldron. Vote was called. Motion carried. Senate Bill 306 was to be transferred to the House Taxation Committee.

SENATE BILL 335: Representative Oberg suggested an amendment to this bill. Representative Oberg moved that the language be reinserted on page 17, lines 2 through 8. Vote was called on the amendment. All voted "aye." Representative Oberg then moved that Senate Bill 335 then be concurred in as amended. Vote was called. All voted "aye."

SENATE BILL 305: Representative Bertelsen moved that Senate Bill 305 be concurred in. Vote was called. All voted "aye." Representative Waldron requested the committee reconsider and amend the bill prior to passage. Representative Waldron then moved to amend Senate Bill 305 as amendments had been submitted for the title, line 9, section 16-1008; also on page 10, line 8, following this section insert "16-1008." Strike that section and insert it there. Vote was then called on the amendment. All voted "aye" and the motion carried. Representative Waldron then moved that Senate Bill 305 be concurred in as amended. Vote was called. All voted "aye." Motion carried.

SENATE BILL 310: Representative Vinger moved that Senate Bill 310 be concurred in. Vote was called. All voted "aye" except Representative Sales. Motion passed.

SENATE BILL 339: Representative Reichert moved that Senate Bill 339 be concurred in. Question was called. All voted "aye" except Representative Moore. Motion carried. Senate Bill 339 was concurred in.

SENATE BILL 332: Representative Gould moved that Senate Bill 332 be concurred in. All voted "aye" and the motion carried.

SENATE BILL 350: Representative Oberg moved Senate Bill 350 be concurred in. All voted "aye" and motion carried.

SENATE BILL 306: It was noted this bill had been referred to House Taxation.

SENATE BILL 307: Representative Oberg moved Senate Bill 307 be concurred in. Question was called and all voted "aye" and the motion carried.

SENATE BILL 337: Representative McBride moved that Senate Bill 337 be concurred in. Vote was called. All voted "aye" and motion carried.

SENATE BILL 340: Representative Kessler moved that Senate Bill 340 be concurred in. All voted "aye" and motion carried.

CONSIDERATION OF SENATE BILL 308: Sponsor of this bill is Senator A. T. (Tom) Rasmussen of Senate District 16. This bill is an act to repeal one of the optional methods of achieving city-county consolidation. Mr. Weinburger explained that the material stricken from this bill is no longer necessary.

CONSIDERATION OF SENATE BILL 335: Senator Lloyd Lockrem, Jr., of Senate District 32, is sponsor of this bill. This bill is an act to generally revise and clarify the local government laws relating to local government offices. In sections 11 and 12, references to felony violations are deleted. The violations described are covered by the criminal code but the penalties differ. The proposed amendment would make the criminal code govern and promote consistency in the criminal law.

CONSIDERATION OF SENATE BILL 305: Senator Robert D. Watt, of Senate District 49, is the sponsor of Senate Bill 305. This bill is an act to generally revise and clarify the local government laws relating to the general operation and conduct of business of local governments and to the acquisition, transfer, and management of property and buildings by local governments. Mr. Weinburger stated that this bill was put in to update the material.

CONSIDERATION OF SENATE BILL 310: Senator Pete Story, of Senate District 37, is the sponsor of Senate Bill 310. This bill is an act to repeal section 7-14-2104, MCA, and Chapter 45, Laws of 1923, relating to sovereign immunity of local governments. This bill repeals certain provisions that were inadvertently omitted from the legislation submitted during the 1977 session.

CONSIDERATION OF SENATE BILL 339: Senator A. T. (Tom) Rasmussen, of Senate District 16, is the sponsor of Senate Bill 339. This bill is an act to generally revise and clarify the local government laws relating to financial administration and taxation. The right of participation in the budget process is extended to residents, under Montana's Constitution this would appear to be needed.

CONSIDERATION OF SENATE BILL 332: Senator Robert D. Watt, of Senate District 49 is the sponsor of Senate Bill 332. This bill is an act to generally revise and clarify the local government laws relating to debt management and to permit the Board of Natural Resources and Conservation to issue refunding revenue bonds. This bill deals mainly with the management of debt in local government.

CONSIDERATION OF SENATE BILL 307: Senator Jesse O'Hara, of Senate District 18, is the sponsor of Senate Bill 307. This bill is an act to clarify the review of local government bond

and freeholder requirements are deleted on various elections concerning financing of local government services.

CONSIDERATION OF SENATE BILL 314: Senator Max Conover, of Senate District 36, is the sponsor of Senate Bill 314. This bill is an act to generally revise and clarify the local government laws relating to business, agriculture, and livestock regulation and to weed and pest control. In Sections 8 and 11, participation in certain activities is extended to residents and the public. The Committee felt that weed boards deal with a problem that principally burdens the landowner and that the term "landowner", therefore, should be left in the bill.

CONSIDERATION OF SENATE BILL 338: Senator Bob Peterson, of Senate District 42, is the sponsor of Senate Bill 338. This bill is an act to generally revise and clarify the local government laws relating to general emergency and protective services, to law enforcement, to fire protection, and to cemetery services. The term "8th class counties" was eliminated. There are no longer any 8th class counties.

DISPOSITION OF SENATE BILL 307: A motion was made by Senator Thomas that Senate Bill 307 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 332: A motion was made by Senator Watt that Senate Bill 332 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 339: A motion was made by Senator Rasmussen that Senate Bill 339 be given a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 310: A motion was made by Senator Watt that Senate Bill 310 be given a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 305: A motion was made by Senator Watt that Senate Bill 305 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 335: A motion was made by Senator Peterson that Senate Bill 335 be given a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 308: A motion was made by Senator Rasmussen that Senate Bill 308 receive a "DO PASS" recommendation from the Committee. Motion carried.

DISPOSITION OF SENATE BILL 334: A motion was made by Senator Watt that Senate Bill 334 be given a "DO PASS" recommendation from the Committee. Motion carried.

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
GEORGE MCCALLUM, CHAIRMAN	✓		
LLOYD LOCKREN, VICE CHAIRMAN	✓		
MAX CONOVER	✓		
JESSE A. O'HARA	✓		
BOB PETERSON	✓		
A. T. (TOM) RASMUSSEN	✓		
PETE STORY	✓		
BILL THOMAS	✓		
ROBERT D. WATT	✓		

Each Day Attach to Minutes.

STANDING COMMITTEE REPORT

.....February.....8.....1979.....

MR.President:.....

We, your committee onLocal Government.....

having had under considerationSenate..... Bill No.322....

Respectfully report as follows: That.....Senate..... Bill No.322....

DO PASS *AM*

SENATE BILL NO. 332

INTRODUCED BY WATT

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LOCAL GOVERNMENT LAWS RELATING TO DEBT MANAGEMENT AND TO PERMIT THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO ISSUE REFUNDING REVENUE BONDS."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-7-105, MCA, is amended to read:

"7-7-105. Challenges to local government bond elections. (1) No action ~~can~~ may be brought for the purpose of restraining the issuance and sale of bonds or other obligations by any county, city, town, or political subdivision of the state or for the purpose of restraining the levy and collection of taxes for the payment of such bonds or other obligations after the expiration of 60 days from the date of the election on such bonds or obligations or, if no election was held thereon, after the expiration of 60 days from the date of the order, resolution, or ordinance authorizing the issuance thereof, on account of any defect, irregularity, or informality in giving notice of or ~~not in~~ holding the election~~s~~, ~~nor shall any~~ No defense based upon any such defect, irregularity, or informality may be

interposed in any action unless brought within this period. This subsection applies but is not limited to any action and defense in which the issue is raised whether a voted debt or liability has carried by the required majority vote of the electors qualified and offering to vote thereon.

(2) (a) Any elector qualified to vote in a bond election of a county, a city, or any political subdivision of either may contest a bond election for any of the following causes:

(i) that the precinct board, in conducting the election or in canvassing the returns, made errors sufficient to change the result of the election;

(ii) that any official charged with a duty under the election laws failed to perform that duty;

(iii) that in conducting the election, any official charged with a duty under the election laws violated any of the provisions of Title 13 relating to bond elections;

(iv) that electors qualified to vote in the election under the provisions of the constitutions of Montana and the United States were not given opportunity to vote in the election;

(v) that electors not qualified to vote in the election under the provisions of the constitutions of Montana and the United States were permitted to vote in the election.

(b) Within 60 days after the election, the contestant shall file a verified petition with the clerk of the court in the judicial district where the election was held.

(3) The word "action", as used in this section, is to be construed, whenever it is necessary to do so, as including a special proceeding proceeding of a civil nature."

Section 2. Section 7-7-4103, MCA, is amended to read:

"7-7-4103. General qualifications to vote on questions of municipal indebtedness. (1) ~~Only---such---registered~~ Registered electors of the city, town, or other municipal corporation ~~whose names appear upon the last assessment roll~~ shall be entitled to ~~may~~ vote upon any proposal to create or increase any indebtedness of the city, town, or other municipal corporation required by law to be submitted to a vote of the electors thereof.

(2) No such elector, otherwise qualified hereunder, ~~shall~~ may be denied the right to vote by reason of the fact that ~~because~~ the polling place for a general election for the precinct wherein he resides and is entitled to vote lies within another city, town, or other municipal corporation."

Section 3. Section 7-7-4111, MCA, is amended to read:

"7-7-4111. Procedure to declare municipal bankruptcy. (1) ~~The state of Montana does hereby consent and exact--that~~ any ~~any~~ city or town of the state of Montana ~~shall have the~~

~~right and power to~~ may submit itself and a proposed plan of composition to the jurisdiction of the bankruptcy court having jurisdiction of such matter; ~~to and~~ be governed by the proceedings, orders, and decrees of ~~said the court in~~ the manner and extent and as provided by ~~said act--and--to~~ the federal municipal bankruptcy laws.

(2) ~~The city or town may~~ compose and enter into, submit itself to, and perform the plan of composition ~~in the~~ manner prescribed and as required by ~~said act~~ the federal laws and the orders and decrees of ~~said the bankruptcy court~~ thereunder and as affected thereby:

~~(a) upon and after~~ the adoption by its city council or town council of an ordinance or resolution:

~~(a) declaring~~ that it is insolvent or unable to meet its debts as they mature;

~~(b) declaring~~ that it desires to effect a plan for the composition of its debts under the provisions of the Municipal Corporation Bankruptcy Act of the--United--States--as--amended--added--to--and--now--existing federal municipal bankruptcy laws; and

~~(c) providing~~ that ~~said the~~ city or town shall proceed to the composition of its municipal indebtedness under the provisions of ~~said act~~ the federal laws; and

~~(d) upon~~ the acceptance in writing of the proposed plan of composition of ~~its~~ municipal indebtedness proposed

by--such--municipality by creditors of the petitioning municipal corporation owning not less than the percentage thereof in amount of the municipal securities affected or to be affected by the proposed plan of composition, as provided in said-act the federal laws."

Section 4. Section 7-7-4112, MCA, is amended to read:

"7-7-4112. Power to comply with court decrees related to bankruptcy. Any such city or town shall-have-the-power-to do-~~at-things-and-to~~ may comply with all orders and decrees contemplated by said--Municipal-Corporation-Bankruptcy-Act the federal municipal bankruptcy laws and to may issue its bonds and other securities for the carrying out and consummation of the composition of its debts as provided and contemplated by said-act the federal law and as required by the orders and decrees of said the bankruptcy court."

Section 5. Section 7-7-4221, MCA, is amended to read:

"7-7-4221. Election on question of incurring indebtedness -- exception. (1) Except as provided in subsection (2), whenever the ~~council-or-commission governing body~~ of any city-or-town-having--a--corporate--existence--in this--state--or--hereafter--organized--under-any-of-the-towns thereof-shall-deem municipality considers it necessary to issue bonds pledging the general credit of the municipality for any purpose ~~whatever-under-its-powers-as-set-forth-in any--statute-or-statutes-of-this-state-or-amendments-thereto~~

authorized by law, the question of issuing such ~~the~~ bonds shall first be submitted to the electors of such ~~the~~ city or town who are qualified to vote on such question--~~in-the manner-hereinafter-set-forth.~~

(2) It shall ~~is~~ not be necessary to submit to such ~~the~~ electors the question of issuing refunding bonds to refund bonds theretofore issued and then outstanding or the question of issuing revenue bonds not pledging the general credit of the municipality under any laws of this state.

~~(3)--No-bonds--shall--be--issued--by--a--city--or--town pledging--the--general--credit--of--the-municipality-for-any purpose-except-to-fund-or-refund-warrants--or--bonds--issued prior--to--and-outstanding-on-duty-in-1942,--as-authorized-in this-section,--unless-authorized-at-a-duty-called-special--or general-election-at-which-the-question-of-issuing-such-bonds is--submitted--to-the-qualified-electors-of-the-city-or-town and-approved-as-hereinafter-provided."~~

Section 6. Section 7-7-4226, MCA, is amended to read:

"7-7-4226. Resolution to submit question of issuing bond to voters. (1) When the ~~council-or-commission governing body~~ of any city-or-town--~~deems~~ municipality considers it necessary to issue bonds pledging the general credit of the municipality pursuant to any statute of this state, the ~~council governing body~~ shall pass and adopt a resolution.

(2) The resolution shall:

1 (a) recite the purpose or purposes for which it is
2 proposed to issue such bond ~~the~~ bonds;

3 (b) fix the amount of bonds to be issued for each
4 purpose;

5 (c) determine the number of years through which such
6 ~~the~~ bonds are to be paid, not exceeding the limits fixed in
7 7-7-4201 ~~7-7-4202~~; and

8 (d) unless such bonds are revenue bonds not pledging
9 the general credit of the municipality, make such provisions
10 as are necessary for having ~~submitting~~ the question
11 ~~submitted~~ to the qualified electors of the city or town at
12 the next general city or town election or at a special
13 election which the ~~council-or-commission~~ governing body may
14 call for such purpose.

15 (3) ~~in cases--where~~ ~~Whenever~~ the bond issuance is
16 proposed by petition, the ~~council-or-commission~~ governing
17 body shall, before submitting the measure to the electorate
18 ~~electors~~, pass a resolution containing the information
19 herein required and, in addition thereto, setting forth the
20 essential facts in regard to the filing and presentation of
21 the petition."

22 Section 7. Section 7-7-4236, MCA, is amended to read:

23 "7-7-4236. Resolution to issue bonds. (1) If it is
24 found that at such election 40% or more of the qualified
25 electors of the city or town entitled to vote on such ~~the~~

1 question or proposition of issuing bonds voted thereon and
2 that a majority of such ~~the~~ votes were cast in favor of the
3 issuing of such ~~the~~ bonds, the city or town council shall,
4 at a regular or special meeting held within 30 days
5 thereafter, pass and adopt a resolution providing for the
6 issuance of such ~~the~~ bonds.

7 (2) Such ~~The~~ resolution shall recite:

8 (a) the purpose for which such ~~the~~ bonds are to be
9 issued;

10 (b) the amount thereof;

11 (c) the maximum rate of interest the bonds may bear;

12 (d) the date they shall bear;

13 (e) the period of time through which they shall be ~~are~~
14 payable; and

15 (f) that any thereof ~~bond~~ may be redeemed in full, at
16 the option of the city or town, on any interest payment date
17 from and after ~~10-years-from-the-date-of-issue~~ expiration of
18 one-half of the term for which the bond was issued.

19 (3) Such ~~The~~ resolution shall provide for the manner
20 of the execution of the bonds. It shall provide that
21 preference shall be given amortization bonds but shall fix
22 the denomination of serial bonds in case it shall be found
23 advantageous to issue bonds in that form. The board council
24 may in its discretion provide that such bonds may be issued
25 and sold in two or more series or installments.

1 (4) The resolution shall adopt a form of notice of the
2 sale of the bonds."

3 Section 8. Section 7-7-4254, MCA, is amended to read:

4 "7-7-4254. Procedure for sale of bonds. (1) The city
5 or town council shall meet at the time and place fixed in
6 the notice to consider bids for the bonds.

7 (2) The bonds shall be sold at not less than par and
8 accrued interest to date of delivery, and each bidder shall
9 specify the form of bonds to be issued, whether amortization
10 or serial, and the rate of interest at which he will
11 purchase the bonds. A bid for amortization bonds shall have
12 preference over a bid for serial bonds, all other things
13 being equal. In determining the kind of bonds to be issued,
14 the council shall take into consideration not only the rate
15 of interest demanded on each kind but also all other known
16 elements affecting the interests of the city or town. The
17 council shall accept the bid ~~they shall judge it considers~~
18 most advantageous to the city or town. The board ~~is~~
19 ~~authorized to council may~~ reject any and all bids and to
20 sell the bonds at private sale if ~~they deem it for this is~~
21 ~~considered to be in~~ the best interests of the city or town;
22 provided, however, that ~~such the~~ bonds ~~shall may~~ not be sold
23 at less than par and accrued interest to date of delivery.

24 (3) No attorneys' fees or brokerage or other fees or
25 commissions of any kind ~~shall may~~ be paid to any person or

1 corporation for assisting in the proceedings, in the
2 preparation of the bonds, or in negotiating the sale
3 thereof."

4 Section 9. Section 7-7-4265, MCA, is amended to read:

5 "7-7-4265. Tax levy for payment of bonds. (1) The city
6 or town council, at the time of making the levy of taxes for
7 general city or town purposes, must levy a separate and
8 special tax upon all taxable property in the city or town
9 for the payment of interest ~~on the~~ and principal ~~of~~ for each
10 series or issue of bonds outstanding. The tax levy for any
11 one series or issue of bonds must be entirely separate and
12 distinct from ~~such the~~ levy for any other issue or series of
13 bonds.

14 (2) The levy made for the purpose of paying interest
15 on and principal of each series or issue of bonds must be
16 high enough to raise an amount sufficient to pay all
17 interest on and so much of the principal, if any, of ~~such~~
18 ~~the~~ bonds as will become due and payable during the
19 then-current fiscal year or within 90 days thereafter, as
20 such amount is shown by the treasurer's statement provided
21 for by 7-7-4264. If no part of the principal of such bonds
22 will become due and payable within such time, then such tax
23 levy must be high enough to raise an amount sufficient to
24 pay all interest which will become due and payable during
25 the current fiscal year or within 90 days thereafter and to

also place in the sinking fund for such issue or series of bonds, for the payment of the principal thereof when the same becomes due, an amount not less than a sum produced by dividing the whole amount for which such the series or issue of bonds were originally issued by the number of years for which such series or issue of bonds were originally issued to run, as such amounts are shown by the treasurer's statement provided for by 7-7-4264."

Section 10. Section 7-7-4602, MCA, is amended to read:

"7-7-4602. Definitions. ~~The following terms whenever used or referred to in this part shall have the following meanings unless a different meaning appears from the context~~
~~As used in this part, unless the context indicates otherwise, the following definitions apply:~~

(1) ~~The term "enterprise" shall mean~~ "Enterprise" means any work, undertaking, or project which the municipality is or may hereafter be authorized to construct and from which the municipality has heretofore derived or may hereafter derive ~~derives~~ revenues, for the refinancing or the refinancing and improving of which enterprise refunding bonds are issued under this part; and such enterprise ~~shall include~~ includes all improvements, betterments, extensions, and replacements thereto and all appurtenances, facilities, lands, rights in land, water rights, franchises, and structures in connection therewith

or incidental thereto.

(2) ~~The term "federal agency" shall include~~ "Federal agency" means the United States, the president of the United States, the federal emergency administrator of public works, reconstruction finance corporation, or any agency, instrumentality, or corporation of the United States which has heretofore been or may hereafter be designated or created by or pursuant to any act or joint resolution of the congress of the United States or which may be directly or indirectly owned or controlled by the United States.

(3) ~~The term "governing body" shall mean~~ "Governing body" means, in the case of a city or town, shall mean the council, commission, or other body, board, officer, or officers having charge of the finances thereof and in the case of the state water conservation board, shall mean the board itself.

(4) ~~The term "holder of bonds" shall mean~~ "Holder of bonds" or "bondholder" (or any similar term) shall mean means any person who shall be is the bearer of any outstanding refunding bond or refunding bonds, registered to bearer or not registered, or the registered owner of any such outstanding bond or bonds which shall is at the time be registered other than to bearer.

(5) ~~The term "improving" shall mean~~ "Improving" means reconstructing, replacing, extending, repairing, bettering,

equipping, developing, embellishing, or improving or any one or more of the foregoing.

(6) ~~The term "law" shall mean~~ "Law" means any act or statute (general, special, or local) of this state, including without being limited to the charter of any municipality.

(7) ~~The term "municipality" shall mean~~ "Municipality" means any city or town of this state ~~or the state water conservation board.~~

(8) ~~The term "refinancing" shall mean~~ "Refinancing" means funding, refunding, paying, or discharging, by means of refunding bonds or the proceeds received from the sale thereof, all or any part of any notes, bonds, or other obligations heretofore or hereafter issued to finance or to aid in financing the acquisition, construction, or improving of an enterprise and payable solely from all or any part of the revenues thereof, including interest thereon in arrears or about to become due, whether or not represented by coupons or interest certificates.

(9) ~~The term "refunding bonds" shall mean~~ "Refunding bonds" means notes, bonds, certificates, or other obligations of a municipality issued pursuant to this part or pursuant to any other law as supplemented by or in conjunction with this part.

(10) ~~The term "revenues" shall mean~~ "Revenues" means

all fees, tolls, rates, rentals, and charges to be levied and collected in connection with and all other income and receipts of whatever kind or character derived by the municipality from the operation of any enterprise or arising from any enterprise."

NEW SECTION. Section 11. Refunding revenue bonds. The board may issue refunding revenue bonds under the provisions of Title 7, chapter 7, part 46. For this purpose, in Title 7, chapter 7, part 46, references to "governing body" means the "board" and references to "municipality" means the "board".

Section 12. Codification. It is intended that section 11 be codified as an integral part of Title 85, chapter 1, part 3, and the provisions of Title 85, chapter 1, apply to section 11.

-End-